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C.I.A. Director Urges Inquiry on NBC Broadcast

By STEPHEN ENGELBERG
Special to The New York Times

WASHINGTON, May 19 — The Director of Central Intelligence said today that he had asked the Justice Department to consider prosecuting the National Broadcasting Company on a charge of broadcasting a report containing classified information.

William J. Casey, the Director, said tonight that the report on this morning's "Today" program would, if true, be a violation of a law forbidding publication of communications intelligence.

Mr. Casey has said several times in recent weeks that he believed the Reagan Administration should prosecute news organizations that violate the laws protecting information related to national security. The Justice Department said tonight it would have no comment.

Report on Spy Suspect

The report, by James Polk, an NBC correspondent, discussed the activities of Ronald W. Pelton, a former employee of the National Security Agency, who went on trial today on espionage charges in Federal District Court in Baltimore. He is accused of giving Soviet agents information about efforts by the National Security Agency to intercept communications within the Soviet Union.

In a transcript of the broadcast as released by NBC, Mr. Polk said: "Pelton apparently gave away one of the N.S.A.'s most sensitive secrets, a project with the code name Ivy Bells believed to be a top-secret eavesdropping program by American submarines inside Soviet harbors."

The code name Ivy Bells has been mentioned around Washington for some time, but the NBC report was not be independently confirmed tonight.

On the question of whether the broadcasting or publication of secret information presumably already in the hands of the Soviet Union could harm the United States, the C.I.A. has argued that news reports could provide further confirmation to the Soviet Union that the information was accurate.

'Statutory Obligations'

In his statement, Mr. Casey said: "We believe that the assertions, if true, made by James Polk on the NBC Today show violate the prohibitions in 18 U.S.C. 798 against publishing any classified information concerning the communications inteligence activities of the United States. My statutory obligation to protect intelligence sources and methods requires me to refer this matter to the Department of Justice."

The law, passed in 1950, bars publication of any information relating to codes and intelligence gathered through intercepted communications. In one of its broadest provisions, it prohibits disclosure of communications by foreign governments if they were obtained through interception.

No news organizations have ever been prosecuted under this statute.

Mr. Polk said: "NBC is referring Mr. Casey's allegation to our legal counsel and therefore I'm asked not to comment." Tim Russert, a vice president at NBC, said it had "referred Casey's allegation to legal counsel to review." He had no further comment.

A spokesman for the agency, George Lauder, said last week that intelligence officials had been ordered not to provide information on intelligence matters to The New York Times and other news organizations.

5 Organizations Names

Mr. Casey has said that five news organizations have violated the communications intelligence statute in reporting on intercepted Libyan communications. These were The New York Times, The Washington Post, Time, Newsweek, and The Washington Times. Editors in those organizations denied knowing of any story they published that violated the law and Justice Department officials were cool to the idea of bringing prosecutions.

In a speech last week, Mr. Casey said that he was not in favor of pursuing past violations, but said future instances in which the laws were broken should be pursued in the courts.

Two weeks ago, Mr. Casey warned two editors of The Washington Post that their newspaper could face prosecution if it published a report on the same subject.

Editors at The Washington Post have said they have not yet decided whether to publish their story on the Pelton case.

The Justice Department is the Federal agency that decides whether to bring criminal prosecutions. When other agencies believe they have evidence of criminal violations of Federal law, they refer the information to the Justice Department, which decides whether to prosecute.

Fred Warren Bennett, Mr. Pelton's lawyer, said today that jury selection in the case would take three to four days. He said trial itself would probably last between five and eight days.

Mr. Bennett said he did not plan to use classified information in defending Mr. Pelton. But he said he planned to cross-examine prosecution witnesses who are expected to testify on the potential damage to national security prosecutors say Mr. Pelton caused.

Most evidence against Mr. Pelton made public so far is drawn from his admissions to two agents of the Federal Bureau of Investigation in two interviews last year. Federal District Judge Herbert Murray has rejected Mr. Bennett's attempt to suppress those statements. Mr. Bennett said the statements were elicted through trickery and added that he would raise the issue again in the trial itself.

"We plan to pursue that defense as well as others," he said.

Prosecutors have avoided giving precise descriptions of programs Mr. Pelton has been accused of compromising. Government officials said the National Security Agency has pressed hard to assure that as little as possible is disclosed about its operations.

Prosecutors have also made public little information about telephone calls they said Mr. Pelton made to set up his first meeting with Soviet agents. In court papers, the prosecution has said only that the calls were made to a "targetted premises." Law enforcement officials have said these calls were made to the Soviet embassy.

Prosecutors have said in pre-trial motions that the tapes would be played for the jury through headphones. The tapes would not be audible to the public, although edited transcripts would be provided for reporters. The National Broadcasting Company and WMAR, its local affiliate in Baltimore, have challenged this procedure.

"We're trying to get it so the tapes are played in open court and no part of this trial is closed," said Stewart G. Webb, a lawyer representing the news organizations.

Meetings in Vienna

According to court papers, Mr. Pelton disclosed to Soviet agents at least two sets of information relating to the security agency.

Prosecutors charged that Mr. Pelton called the Soviet agents in January 1980 to offer them something "very interesting." According to court papers, the F.B.I. said Mr. Pelton said he told the Soviet agents at a subsequent meeting about an N.S.A. collection project that could be understood without much technical knowledge.

Prosecutors charged that over the next three years Mr. Pelton met with Soviet agents twice in Vienna. Among the matters discussed, the prosecutors said, was a report Mr. Pelton wrote in 1978 about security agency projects aimed at the Soviet Union.

The tip that lead to the investigation of Mr. Pelton came from Vitaly Yurchenko, a former official of the K.G.B., the Soviet intelligence agency who defected to the West. Mr. Yurchenko subsequently returned to the Soviet Union, charging he was kidnaped and tortured by the Central Intelligence Agency. But American officials have concluded he was a defector who changed his mind.

According to court papers, Mr Pelton was overheard talking to Mr. Yurchenko in one of the phone calls intercepted by American authorities in 1980.

Judge Murray began questioning prospective jurors today about their affiliation with the military, the United States government, and local law enforcement agencies. He said he would question them individually in his chambers.

The jurors were asked to fill out questionnaire in which they were asked to identify, among other things, which newspapers they read, which television news shows they watched, and the names of their three favorite television shows.

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